
 DEPARTMENTAL POLICY State of Tennessee Department of Transportation	Policy Number: 105-01
	Effective Date: March 19, 2012
Approved By: 	Supersedes: March 16, 2008
SUBJECT: Equal Employment Opportunity	

RESPONSIBLE OFFICE: Civil Rights Office

AUTHORITY: T.C.A. § 4-3-124, T.C.A. § 4-3-2303. Title VII of the Civil Rights Act of 1964, as amended. Department of Human Resources Policy No. 11-009 concerning “Workplace Discrimination and Harassment” dated January 12, 2011. If any portion of this policy conflicts with applicable state or federal laws or regulations, that portion shall be considered void. The remainder of this policy shall not be affected thereby and shall remain in full force and effect.

RELATED POLICY: TDOT Policy No. 105-02, Workplace Discrimination and Harassment.

PURPOSE: The purpose of this policy is to establish TDOT’s Equal Employment Opportunity Policy.

APPLICATION: All TDOT employees, applicants for employment, and persons conducting business with the Department.

DEFINITIONS:

Discrimination – Any administrative decision based in whole or in part on a person’s race, color, sex, pregnancy, age (40 and over), religion, creed, national origin, disability, veteran’s status, or any other category protected by state and/or federal civil rights laws.

Workplace Harassment – Any unwelcome verbal, written, or physical conduct that either degrades or shows hostility or aversion toward a person because of that person’s membership in any of the aforementioned protected categories.

To aid employees in identifying prohibited behavior, the following specific examples of workplace harassment are provided. These examples are not exhaustive; they illustrate, however, the types of conduct that violate this policy:

- Undermining a person’s authority or work performance because of the person’s protected characteristics, such as age or religion;
- Using prohibited stereotypes or assumptions to guide decisions made about a person’s career;
- Unwelcome touching or near-touching, which can encompass leaning over, cornering, hugging or pinching, sexual innuendos, teasing and other sexual talk such as jokes, personal inquiries, persistent unwanted courting and sexist put-downs;
- Slurs and jokes about a class of persons, such as disabled persons or a racial group;

- Distributing via electronic means epithets, slurs, jokes or remarks that are derogatory or demeaning to a class of persons or a particular person or that promote stereotypes of a class of persons;
- Display of explicit or offensive calendars, posters, pictures, drawings or cartoons that are sexually suggestive or that reflect disparagingly upon a class of persons or a particular person;
- Derogatory remarks about a person's national origin, race, language, and/or accent.

Hostile Work Environment – Hostile work environment harassment occurs when a victim is subjected to unwelcome comments based on race, color, national origin, age (40 and over), sex, pregnancy, religion, creed, disability, veteran's status or any other category protected by state and/or federal civil rights laws. A hostile work environment may also be created by innuendoes, touching, electronic communications or other conduct that creates an intimidating or offensive workplace.

Sexual Harassment – Any unwelcome sexual advance, request for sexual favors, or verbal, written, electronic, or physical conduct of a sexual nature by a manager, supervisor, co-worker, or non-employee (third party). Managerial harassment occurs when a manager or supervisor gives or withholds a work-related benefit in exchange for sexual favors from the victim or takes an adverse action against an employee for refusing a request for sexual favors. In some circumstances, threatening to take such actions may also violate this policy. Certain actions may also create a hostile work environment (see previous definition).

Retaliation – Retaliation is *any* overt or covert act of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or individuals exercising rights under this policy.

Third Parties – Third parties are individuals who are not state employees but who have business interactions with state employees. Such individuals include, but are not limited to, customers, such as applicants for state employment or services, vendors, contractors, or volunteers.

POLICY: The Tennessee Department of Transportation is firmly committed to the principle of fair and equal employment opportunities for its citizens and strives to protect the rights and opportunities of all people to seek, obtain, and hold employment without being subjected to illegal discrimination or harassment in the workplace. It is the State's policy to provide an environment free of discrimination or harassment of an individual because of that person's race, color, national origin, age (40 and over), sex, pregnancy, religion, creed, disability, veteran's status or any other category protected by state and/or federal civil rights laws.¹

¹ **Note:** While the Department is committed to the principles embodied in this policy, the policy itself is not intended to state contractual terms and does not constitute a contract between the State and its employees, applicants for employment, or parties who do business with the State. This policy supersedes all policies that conflict with the terms of this policy. Furthermore, this document and its contents constitute **ONLY** the policy of the State of Tennessee and the Tennessee Department of Transportation. A finding of a violation of this policy does not mean that the conduct violates state and/or federal civil rights laws.

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Employees or applicants for employment who believe they have been discriminated against or harassed on any of these bases may lodge a complaint using the procedures set forth in TDOT Policy No. 105-02, Workplace Discrimination and Harassment/Complaint Procedures.

CONDUCT PROHIBITED BY THE DEPARTMENT

The Department strictly forbids and will not tolerate discrimination or harassment of any employee, applicant for employment, or third party on the basis of an individual's race, color, national origin, age (40 and over), sex, pregnancy, religion, creed, disability, veteran's status or any other category protected by state and/or federal civil rights laws. The fact that an alleged offender meant no harm or was teasing will not excuse conduct that violates this policy.

The Department strictly forbids and will not tolerate any form of retaliation directed against an employee, applicant for employment, or third party who either complains about or who participates in any investigation concerning an alleged violation of this policy. See TDOT Policy No. 105-02, Workplace Discrimination and Harassment/Complaint Procedures.